

House Bill 991

By: Representative Stephens of the 164th

A BILL TO BE ENTITLED

AN ACT

To amend Title 31 of the Official Code of Georgia Annotated, relating to health, Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations, Title 37 of the Official Code of Georgia Annotated, relating to mental health, Title 43 of the Official Code of Georgia Annotated, relating to professions, Title 45 of the Official Code of Georgia Annotated, relating to public officers, and Title 50 of the Official Code of Georgia Annotated, relating to state government, so as to provide for the repeal of certain provisions relating to community service boards; to provide for related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by striking Code Section 31-3-12.1, relating to contracts between county boards of health and community service boards, and inserting in its place a new Code Section 31-3-12.1 to read as follows:

"31-3-12.1.

~~In addition to any other power authorized by law, the county governing authority may authorize the county board of health to enter into a contract with the department or a community mental health, developmental disabilities, and addictive diseases service board created under Chapter 2 of Title 37 to provide certain mental health, developmental disabilities, and addictive diseases services based on the contractual agreement between the parties. Further, a county governing authority may authorize a county board of health, wherever applicable, to serve as the community mental health, developmental disabilities, and addictive diseases service board, provided that the county governing authority, the board of health, and any other affected county governing authority acts pursuant to subsection (c) of Code Section 37-2-6. In the event that the county governing authority~~

~~exercises the authority granted by this Code section, Chapter 2 of Title 37, or Code Section 37-2-6, the county board of health shall appoint a director for mental health, developmental disabilities, and addictive diseases or a supervisor of the specific service which is being provided by the county board of health, whichever is applicable, who shall meet the requirements established by this Code section. The director for mental health, developmental disabilities, and addictive diseases, or the service supervisor, shall not be required to be a physician and shall be a person other than the director of the county board of health appointed pursuant to Code Section 31-3-11. Further, such director for mental health, developmental disabilities, and addictive diseases or such supervisor of the specific service shall report directly to the community service board or the county board of health, whichever is applicable, and shall have no formal reporting relationship with the director of the county board of health. If a county board of health exercises the authority granted pursuant to this Code section and Chapter 2 of Title 37 to serve as a community service board, the membership of the county board of health shall constitute the community service board and, at any time that such members are exercising duties and powers related to mental health, developmental disabilities, and addictive diseases, the community service board shall be an independent agency and shall operate in accordance with the provisions of Title 37 as a community service board. Notwithstanding any provisions of law to the contrary, a community service board and a county board of health which have the same membership may contract with each other, provided that any such contract is approved by the department prior to adoption. Reserved.~~

SECTION 2.

Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations, is amended by striking subsection (h) of Code Section 34-8-35, relating to definitions regarding employment security, and inserting in its place a new subsection (h) to read as follows:

"(h) The term 'employment' shall include service performed in the employ of this state or any of its instrumentalities or any political subdivision of this state or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of any of the foregoing and one or more other states or political subdivisions, provided that such service is excluded from 'employment' as defined in the Federal Unemployment Tax Act by Section 3306(c)(7) of that act and is not excluded from 'employment' under paragraph (3) of subsection (j) of this Code section. Each of the governmental entities described above shall be individually liable for the payment of contributions or reimbursement for payment of benefits as provided in Code Sections

1 34-8-158 through 34-8-161; and each shall be individually responsible for the filing of
2 quarterly wage summary reports as promulgated in regulations by the Commissioner and
3 provided in Code Section 34-8-165. For the purposes of the unemployment compensation
4 coverage provided for by this chapter, employees of county and district health agencies
5 established under Chapter 3 of Title 31 ~~and employees of the community service boards~~
6 ~~established under Chapter 2 of Title 37~~ are deemed to be employees of this state."

7 **SECTION 3.**

8 Said title is further amended by striking paragraph (2) of Code Section 34-9-1, relating to
9 definitions regarding workers' compensation, and inserting in its place a new paragraph (2)
10 to read as follows:

11 "(2) 'Employee' means every person in the service of another under any contract of hire
12 or apprenticeship, written or implied, except a person whose employment is not in the
13 usual course of the trade, business, occupation, or profession of the employer; and, except
14 as otherwise provided in this chapter, minors are included even though working in
15 violation of any child labor law or other similar statute; provided, however, that nothing
16 contained in this chapter shall be construed as repealing or altering any such law or
17 statute. Any reference to any employee who has been injured shall, if the employee dies,
18 include such employee's legal representatives, dependents, and other persons to whom
19 compensation may be payable pursuant to this chapter. All firefighters, law enforcement
20 personnel, and personnel of emergency management or civil defense agencies, emergency
21 medical services, and rescue organizations whose compensation is paid by the state or any
22 county or municipality, regardless of the method of appointment, and all full-time county
23 employees and employees of elected salaried county officials are specifically included in
24 this definition. There shall also be included within such term any volunteer firefighter of
25 any county or municipality of this state, but only for services rendered in such capacity
26 which are not prohibited by Code Section 38-3-36 and only if the governing authority of
27 the county or municipality for which such services are rendered shall provide by
28 appropriate resolution for inclusion of such volunteer firefighters; any volunteer law
29 enforcement personnel of any county or municipality of this state who are certified by the
30 Georgia Peace Officer Standards and Training Council, for volunteer law enforcement
31 services rendered in such capacity which are not prohibited by Code Section 38-3-36 and
32 only if the governing authority of the county or municipality for which such services are
33 rendered shall provide by appropriate resolution for inclusion of such volunteer law
34 enforcement personnel; any person who is a volunteer member or worker of an
35 emergency management or civil defense organization, emergency medical service, or

1 rescue organization, whether governmental or not, of any county or municipality of this
2 state for volunteer services, which are not prohibited by Code Section 38-3-36, rendered
3 in such capacity and only if the governing authority of the county or municipality for
4 which such services are rendered shall provide by appropriate resolution for inclusion of
5 such volunteer members or workers; and any person certified by the Department of
6 Human Resources or the Composite State Board of Medical Examiners and registered
7 with any county or municipality of this state as a medical first responder for any volunteer
8 first responder services rendered in such capacity, which are not prohibited by Code
9 Section 38-3-36 and only if the governing authority of the county or municipality for
10 which such services are rendered shall provide by appropriate resolution for inclusion of
11 such responders. The various elected county officers and elected members of the
12 governing authority of an individual county shall also be included in this definition, if the
13 governing authority of said county shall provide therefor by appropriate resolution. For
14 the purposes of workers' compensation coverage, employees of county and district health
15 agencies established under Chapter 3 of Title 31 are deemed and shall be considered
16 employees of the State of Georgia ~~and employees of community service boards~~
17 ~~established under Chapter 2 of Title 37 shall be considered to be employees of the state.~~
18 For the ~~purpose~~ purposes of workers' compensation coverage, members of the Georgia
19 National Guard and the State Defense Force serving on state active duty pursuant to an
20 order by the Governor are deemed and shall be considered to be employees of this state.
21 A person shall be an independent contractor and not an employee if such person has a
22 written contract as an independent contractor and if such person buys a product and
23 resells it, receiving no other compensation, or provides an agricultural service or such
24 person otherwise qualifies as an independent contractor. Notwithstanding the foregoing
25 provisions of this paragraph, any officer of a corporation may elect to be exempt from
26 coverage under this chapter by filing written certification of such election with the insurer
27 or, if there is no insurer, the State Board of Workers' Compensation as provided in Code
28 Section 34-9-2.1. For purposes of this chapter, an owner-operator as such term is defined
29 in Code Section 40-2-87 shall be deemed to be an independent contractor. Inmates or
30 persons participating in a work release program, community service program, or similar
31 program as part of the punishment for violation of a municipal ordinance pursuant to
32 Code Section 36-32-5 or a county ordinance or a state law shall not be deemed to be an
33 employee while participating in work or training or while going to and from the work site
34 or training site, unless such inmate or person is employed for private gain in violation of
35 Code Section 42-1-5 or Code Section 42-8-70 or unless the municipality or county had

1 voluntarily established a policy, on or before January 1, 1993, to provide workers'
2 compensation benefits to such individuals."

3 SECTION 4.

4 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by
5 striking paragraph (4) of Code Section 37-1-1, relating to definitions regarding mental health,
6 and inserting in its place a new paragraph (4) to read as follows:

7 ~~"(4) 'Community service board' means a public mental health, developmental disabilities,~~
8 ~~and addictive diseases board established pursuant to Code Section 37-2-6 which provides~~
9 ~~one or more mental health, developmental disability, and addictive disease services~~
10 ~~through contract with the department. Such community service board may enroll with~~
11 ~~the department to become a provider of specific mental health, developmental disability,~~
12 ~~and addictive disease services with such services being negotiated and contracted~~
13 ~~annually with the department. Reserved."~~

14 SECTION 5.

15 Said title is further amended by striking paragraph (10) of subsection (a) of Code Section
16 37-1-2, relating to legislative findings regarding mental health, and inserting in its place a
17 new paragraph (10) to read as follows:

18 ~~"(10) Consumers, staff, providers, and regional planning board and community service~~
19 ~~board members should receive ongoing training and education and should have access~~
20 ~~to key management resources such as information systems and technical and professional~~
21 ~~support services; and"~~

22 SECTION 6.

23 Said title is further amended by striking Code Section 37-1-20, relating to the Division of
24 Mental Health, Developmental Disabilities, and Addictive Diseases of the Department of
25 Human Resources, and inserting in its place a new Code Section 37-1-20 to read as follows:

26 "37-1-20.

27 (a) The Division of Mental Health, Developmental Disabilities, and Addictive Diseases
28 shall be a division of the department and shall be managed by a director whose
29 qualifications meet standards set by the board.

30 (b) The department, through the division, shall:

31 (1) Establish, administer, and supervise the state programs for mental health,
32 developmental disabilities, and addictive diseases;

1 (2) Direct, supervise, and control the medical and physical care, treatment, and
2 rehabilitation provided by the institutions and programs under its control, management,
3 or supervision;

4 (3) Have authority to contract for services with: ~~community service boards~~, private
5 agencies; and other public entities for the provision of services within a service area so
6 as to provide an adequate array of services, choice of providers for consumers, and to
7 comply with the applicable federal laws, rules and regulations related to public or private
8 hospitals; hospital authorities; medical schools, and training and educational institutions;
9 departments and agencies of this state; county or municipal governments; any person,
10 partnership, corporation, or association, whether public or private; the United States
11 government or the government of any other state;

12 (4) Establish and support programs for the training of professional and technical
13 personnel as well as regional planning boards ~~and community service boards~~;

14 (5) Have authority to conduct research into the causes and treatment of disability and into
15 the means of effectively promoting mental health;

16 (6) Assign specific responsibility to one or more units of the division for the
17 development of a disability prevention program. The objectives of such program shall
18 include, but are not limited to, monitoring of completed and ongoing research related to
19 the prevention of disability, implementation of programs known to be preventive, and
20 testing, where practical, of those measures having a substantive potential for the
21 prevention of disability;

22 (7) Establish a system for regional administration of mental health, developmental
23 disability, and addictive ~~disease~~ diseases services in institutions and in the community
24 under the supervision of a regional coordinator;

25 (8) Make and administer budget allocations to regional offices of the division established
26 by the board pursuant to Code Section 37-2-4.1, to fund the operation of mental health,
27 developmental disabilities, and addictive diseases facilities and programs;

28 (9) Coordinate in consultation with providers, professionals, and other experts the
29 development of appropriate outcome measures for client centered service delivery
30 systems;

31 (10) Establish, operate, supervise, and staff programs and facilities for the treatment of
32 disabilities throughout this state;

33 (11) Disseminate information about available services and the facilities through which
34 such services may be obtained;

35 (12) Supervise the regional office's exercise of its responsibility and authority
36 concerning funding and delivery of disability services;

1 (13) Supervise the regional offices concerning the receipt and administration of grants,
2 gifts, moneys, and donations for purposes pertaining to mental health, developmental
3 disabilities, and addictive diseases;

4 (14) Supervise the regional offices concerning making contracts with any hospital;
5 ~~community service board~~; or any public or private providers without regard to regional
6 or state boundaries for the provision of disability services and in making and entering into
7 all contracts necessary or incidental to the performance of the duties and functions of the
8 division and the regional offices;

9 (15) Regulate the delivery of care, including behavioral interventions and medication
10 administration by licensed staff, or certified staff as determined by the division, within
11 residential settings serving only persons who are receiving services authorized or
12 financed, in whole or in part, by the division; and

13 (16) Establish 'community living arrangements' which shall be defined as any residence,
14 whether operated for profit or not, which undertakes through its ownership or
15 management to provide or arrange for the provision of housing, food, one or more
16 personal services, supports, care, or treatment exclusively for two or more persons who
17 are not related to the owner or administrator of the residence by blood or marriage and
18 whose services are financially supported, in whole or in part, by funds authorized through
19 the Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the
20 Department of Human Resources.

21 (c) The department shall:

22 (1) Establish a unit of the department which shall receive and consider complaints from
23 individuals receiving services, make recommendations to the director of the division
24 regarding such complaints, and ensure that the rights of individuals receiving services are
25 fully protected;

26 (2) Exercise all powers and duties provided for in this title or which may be deemed
27 necessary to effectuate the purposes of this title;

28 (3) Assign specific responsibility to one or more units of the division for the
29 development of programs designed to serve disabled infants, children, and youth. To the
30 extent practicable, such units shall cooperate with the Georgia Department of Education
31 and the University System of Georgia in developing such programs; and

32 (4) Classify and license community living arrangements, as defined in paragraph (16) of
33 subsection (b) of this Code section, in accordance with the rules and regulations
34 promulgated by the department for the licensing of community living arrangements and
35 the enforcement of licensing requirements. To be eligible for licensing as a community
36 living arrangement, the residence and services provided must be integrated within the

1 local community. All community living arrangements licensed by the department shall
2 be subject to the provisions of Code Sections 31-2-6 and 31-7-2.2. No person, business
3 entity, corporation, or association, whether operated for profit or not for profit, may
4 operate a community living arrangement without first obtaining a license or provisional
5 license from the department. A license issued under this article is not assignable or
6 transferable."

7 **SECTION 7.**

8 Said title is further amended by striking Code Section 37-1-24, relating to use of certain
9 psychologists or physicians, and inserting in its place a new Code Section 37-1-24 to read as
10 follows:

11 "37-1-24.

12 No provision in this title shall require the department or any facility or private facility ~~or~~
13 ~~any community service board~~ to utilize a physician in lieu of a psychologist or a
14 psychologist in lieu of a physician in performing functions under this title even though this
15 title authorizes either a physician or a psychologist to perform the function."

16 **SECTION 8.**

17 Said title is further amended by striking paragraph (2) of Code Section 37-2-2, relating to
18 definitions regarding mental health administration, and inserting in its place a new paragraph
19 (2) to read as follows:

20 "(2) ~~'Community service board' means a public mental health, developmental disabilities,~~
21 ~~and addictive diseases board established pursuant to Code Section 37-2-6 which provides~~
22 ~~one or more mental health, developmental disabilities, and addictive diseases services~~
23 ~~through contract with the department. Such community service board may enroll with~~
24 ~~the department to become a provider of specific mental health, developmental disabilities,~~
25 ~~and addictive diseases services with such services being negotiated and contracted~~
26 ~~annually with the department. Reserved.~~"

27 **SECTION 9.**

28 Said title is further amended by striking Code Section 37-2-3, relating to designation of
29 regional and community service areas, and inserting in its place a new Code Section 37-2-3
30 to read as follows:

31 "37-2-3.

(a) The board shall designate boundaries for mental health, developmental disabilities, and addictive diseases regions and may modify the boundaries of such regions from time to time as deemed necessary by the board.

~~(b) The division, with the approval of the commissioner, shall designate community service areas, which shall serve as boundaries for the establishment and operation of community service boards within this state for the purpose of delivering disability services. The division shall be authorized to initiate the redesignation of such community service area boundaries and may consider requests from a county or group of counties for recommended changes to the boundaries of the community service areas.~~

~~(c)~~(b) To the extent practicable, the boundaries for regional planning boards and offices and ~~community service areas~~ shall not subdivide any county unit or conflict with any districts established by the department and the state relating to the planning for, or delivery of, health services. In dividing the state into ~~areas~~ regions, the board, the department, and the division shall take into consideration such factors as geographic boundaries, roads and other means of transportation, population concentrations, city and county lines, other relevant community services, and community economic and social relationships. Consideration shall also be given to the existence of facilities and personnel available in the ~~areas~~ regions for the delivery of disability services."

SECTION 10.

Said title is further amended by striking subsection (b) of Code Section 37-2-4, relating to the Governor's Advisory Council for Mental Health, Mental Retardation, and Substance Abuse, and inserting in its place a new subsection (b) to read as follows:

"(b) The Governor's council shall advise the Governor, the board, the department, and the division as to the efficacy of the state disability services programs, the need for legislation relating to the disabled, the need for expansion or reduction of specific disability services programs, and the need for specific changes in the state disability services programs. The Governor's council shall review and prepare written comments on proposed state plans and on standards, rules, and regulations promulgated by the division. Such comments shall be submitted to the director, the board, the commissioner, and to any other individual or agency deemed appropriate. The Governor's council shall further receive and consider complaints and grievances submitted in writing by individuals, associations, or agencies involved with the delivery or receipt of disability services and, if deemed appropriate, shall make recommendations to the Governor, the board, the department, or the division with respect to such complaints or grievances. The Governor's council shall also provide

guidance and assistance to the regional planning boards, hospitals, ~~community service boards~~, and other private or public providers in the performance of their duties."

SECTION 11.

Said title is further amended by striking subsections (b.1) and (b.2) of Code Section 37-2-5, relating to regional planning boards, and inserting in their place new subsections (b.1) and (b.2) to read as follows:

"(b.1) A county governing authority may appoint the school superintendent, a member of the board of health, a member of the board of education, or any other elected or appointed official to serve on the regional planning board, provided that such person meets the qualifications of paragraph (4) of subsection (b) of this Code section; ~~such person does not serve on a community service board~~, and such appointment does not violate the provisions of Chapter 10 of Title 45.

(b.2)(1) A person shall not be eligible to be appointed to or serve on a regional planning board if such person is:

~~(A) A member of the community service board which serves that region; or~~

~~(B)~~ (A) An employee or board member of a private or public entity which contracts with the department, through the division, to provide mental health, developmental disabilities, or addictive diseases services within the region; or

~~(C)~~ (B) An employee of such regional office or employee or board member of any private or public group, organization, or service provider which contracts with or receives funds from such regional office.

(2) A person shall not be eligible to be appointed to or serve on a regional planning board if such person's spouse, parent, child, or sibling is a member of that regional planning board or a member, employee, or board member specified in subparagraph ~~(A)~~, ~~or (B)~~, ~~or (C)~~ (A) or (B) of paragraph (1) of this subsection. ~~No person who has served a full term or more on a regional board or regional planning board may be appointed to a community service board until a period of at least two years has passed since the time such person served on the regional board or the regional planning board. No person who has served on a regional board and who becomes a member of a regional planning board on June 30, 2002, may be appointed to a community service board until a period of at least two years has passed since the time such person has served on the regional planning board."~~

SECTION 12.

1 Said title is further amended by striking subsection (c) of Code Section 37-2-5.1, relating to
2 regional coordinators, and inserting in its place a new subsection (c) to read as follows:

3 "(c)(1) State, federal, and other funds appropriated to the department, the division, or
4 both, and available for the purpose of funding the planning and delivery of disability
5 services shall be distributed in accordance with this subsection. All funds associated with
6 services to clients residing within a given region shall be managed through the division;
7 the term 'all funds' shall include funding for hospitals, ~~community service boards~~, private
8 and public contracts, and any contracts relating to service delivery for clients within the
9 given region. The division shall establish a funding amount for regions conditioned upon
10 the amount of funds appropriated. The funding amount shall be determined, in part,
11 based on consumer service needs, service and program history, population based funding
12 needs, infrastructure mandates, program efficiency and effectiveness, geographic
13 distances, and other factors affecting the cost and level of service needs within each
14 region.

15 (2) The division shall establish guidelines to ensure that regions receive such funding
16 based on client population, past and future service delivery needs and capabilities, and
17 in consideration of special needs populations, such as homeless and transient populations.
18 The division shall ensure that funds are managed based primarily on services to clients
19 and in compliance with all federal, state, and regulatory requirements.

20 (3) The division, in compliance with the provisions of the General Appropriations Act
21 and other applicable laws, is authorized to move funds to and between community and
22 institutional programs based on need, and the division shall develop appropriate
23 allocation and accounting mechanisms to move funds in a planned and rational manner
24 between hospitals, ~~community service boards~~, and other providers based on client needs
25 and utilization."

26 SECTION 13.

27 Said title is further amended by striking paragraphs (5) and (8) of subsection (a) of Code
28 Section 37-2-5.2, relating to duties and functions of regional planning boards, and inserting
29 in their place new paragraphs (5) and (8) to read as follows:

30 "(5) To enter into contracts on behalf of the division with any hospital, ~~community~~
31 ~~service board~~, or other public or private providers without regard to regional or state
32 boundaries for the provision of disability services, and to enter into all contracts on behalf
33 of the division necessary or incidental to the performance of duties and functions of the
34 division and regional office;"

1 ~~(1) Each county with a population of 50,000 or less according to the United States~~
2 ~~decennial census of 1990 or any future such census shall appoint one member to the~~
3 ~~board;~~

4 ~~(2) Each county with a population of more than 50,000 according to the United States~~
5 ~~decennial census of 1990 or any future such census shall appoint one member for each~~
6 ~~population increment of 50,000 or any portion thereof;~~

7 ~~(3) The appointment or appointments for each county shall be made by the county~~
8 ~~governing authority;~~

9 ~~(4) The county governing authority shall appoint a consumer of disability services, a~~
10 ~~family member of a consumer, an advocate for disability services, or a local leader or~~
11 ~~businessperson with an interest in mental health, developmental disabilities, and addictive~~
12 ~~diseases; provided, however, that for counties with more than one appointment, the~~
13 ~~county governing authority shall seek to ensure that such appointments represent various~~
14 ~~groups and disability services;~~

15 ~~(5) The chief executive or a designee of the chief executive of each county governing~~
16 ~~authority or municipal governing authority which contributes funding or resources which~~
17 ~~equal or exceed one-half of 1 percent of the budget allocation from the division for~~
18 ~~disability services within the area governed by the community service board shall serve~~
19 ~~as an ex officio, voting member of the community service board; and~~

20 ~~(6)(A) A person shall not be eligible to be appointed to or serve on a community~~
21 ~~service board if such person is:~~

22 ~~(i) A member of the regional planning board which serves the region in which that~~
23 ~~community service board is located;~~

24 ~~(ii) An employee or board member of a public or private entity which contracts with~~
25 ~~the division to provide mental health, developmental disabilities, and addictive~~
26 ~~diseases services within the region; or~~

27 ~~(iii) An employee of that community service board or employee or board member of~~
28 ~~any private or public group, organization, or service provider which contracts with or~~
29 ~~receives funds from that community service board.~~

30 ~~(B) A person shall not be eligible to be appointed to or serve on a community service~~
31 ~~board if such person's spouse, parent, child, or sibling is a member of that community~~
32 ~~service board or a member, employee, or board member specified in division (i), (ii),~~
33 ~~or (iii) of subparagraph (A) of this paragraph. With respect to appointments by the~~
34 ~~same county governing authority, no person who has served a full term or more on a~~
35 ~~community service board may be appointed to a regional planning board until a period~~
36 ~~of at least two years has passed since the time such person served on the community~~

1 ~~service board, and no person who has served a full term or more on a regional planning~~
2 ~~board may be appointed to a community service board until a period of at least two~~
3 ~~years has passed since the time such person has served on the regional planning board.~~

4 ~~(b.1) A county governing authority may appoint the school superintendent, a member of~~
5 ~~the board of health, a member of the board of education, or any other elected or appointed~~
6 ~~official to serve on the community service board provided that such person meets the~~
7 ~~qualifications of paragraph (4) of subsection (b) of this Code section and such appointment~~
8 ~~does not violate the provisions of Chapter 10 of Title 45. For terms of office which begin~~
9 ~~July 1, 1994, or later, an employee of the Department of Human Resources or an employee~~
10 ~~of a county board of health may not serve on a community service board.~~

11 ~~(c) In making appointments to the community service board, the various county governing~~
12 ~~authorities shall ensure that appointments are reflective of the cultural and social~~
13 ~~characteristics, including gender, race, ethnic, and age characteristics, of the regional and~~
14 ~~county populations. The county governing authorities are further encouraged to ensure that~~
15 ~~each disability group is viably and capably represented on the community service board,~~
16 ~~and in making nominations for such appointments the board of health shall consider~~
17 ~~suggestions from clinical professional associations as well as advocacy groups, including~~
18 ~~but not limited to the Georgia Mental Health Consumer Network, People First of Georgia,~~
19 ~~the Georgia Parent Support Network, National Alliance for the Mentally Ill Georgia, the~~
20 ~~American Association for Retired Persons, Georgians for Children, the National Mental~~
21 ~~Health Association of Georgia, Georgia ARC Network, and the Georgia Council on~~
22 ~~Substance Abuse and their local chapters and affiliates.~~

23 ~~(d) Each county within the boundaries established for the community service board shall~~
24 ~~participate with the board in the operation of the program through the community service~~
25 ~~board. All contractual obligations, including but not limited to real estate leases, rentals,~~
26 ~~and other property agreements, other duties, rights, and benefits of the mental health,~~
27 ~~developmental disabilities, and addictive diseases service areas in existence on December~~
28 ~~31, 2002, shall continue to exist along with the new powers granted to the community~~
29 ~~service boards effective January 1, 2003.~~

30 ~~(e) Notwithstanding any other provision of this chapter, a community service board may~~
31 ~~be constituted in a method other than that outlined in subsection (b) of this Code section~~
32 ~~if:~~

33 ~~(1) A board of health of a county desiring to be the lead county board of health for that~~
34 ~~county submits a written agreement to the division before July 1, 1993, to serve as the~~
35 ~~community service board and to continue providing disability services in that county after~~
36 ~~July 1, 1994, and the governing authority for that county adopts a resolution stating its~~

1 ~~desire to continue the provision of disability services through its board of health after July~~
2 ~~1, 1994, and submits a copy of such resolution to the division before July 1, 1993; or~~

3 ~~(2)(A) The lead county board of health for a community mental health, mental~~
4 ~~retardation, and substance abuse service area, as designated by the division on July 15,~~
5 ~~1993, but which area excludes any county which meets the requirements of paragraph~~
6 ~~(1) of this subsection, submits a written agreement to the division and to all counties~~
7 ~~within such service area to serve as the community service board for that area and to~~
8 ~~continue providing disability services after July 1, 1994, which agreement shall be~~
9 ~~submitted between July 31, 1993, and December 31, 1993; and~~

10 ~~(B) Each county governing authority which is within the service area of a lead county~~
11 ~~board of health which has submitted an agreement pursuant to subparagraph (A) of this~~
12 ~~paragraph adopts a resolution stating its desire to continue the provision of disability~~
13 ~~services through such lead county board of health after July 1, 1994, and submits a copy~~
14 ~~of that resolution to the division, the regional board, and the lead county board of health~~
15 ~~between July 31, 1993, and December 31, 1993; and~~

16 ~~(3) The lead county board of health qualifying as such under paragraph (1) or (2) of this~~
17 ~~subsection agrees in writing to appoint a director for mental health, mental retardation,~~
18 ~~and substance abuse other than the director of the county board of health as stipulated in~~
19 ~~Code Section 31-3-12.1, to appoint an advisory council on mental health, mental~~
20 ~~retardation, and substance abuse consisting of consumers, families of consumers, and~~
21 ~~representatives from each of the counties within the boundaries of the community service~~
22 ~~board, and to comply with all other provisions relating to the delivery of disability~~
23 ~~services pursuant to this chapter.~~

24 ~~(f) If the conditions enumerated in subsection (e) of this Code section are not met prior to~~
25 ~~or on December 31, 1993, a community service board as provided in subsection (b) shall~~
26 ~~be established and appointed by January 31, 1994, to govern the provision of disability~~
27 ~~services within the boundaries of the community service board. Such community service~~
28 ~~board shall have the authority to adopt bylaws and undertake organizational and contractual~~
29 ~~activities after January 31, 1994, provided, however, that the community service board~~
30 ~~established pursuant to this Code section may not begin providing services to clients until~~
31 ~~July 1, 1994.~~

32 ~~(g) If a community service board is established pursuant to paragraph (2) of subsection (e)~~
33 ~~of this Code section, such community service board must operate as established at least~~
34 ~~until June 30, 1996; provided, however, that in each fiscal year following June 30, 1996,~~
35 ~~the counties included under the jurisdiction of such a community service board may vote~~
36 ~~to reconstitute the community service board pursuant to the provisions of subsection (b) of~~

1 ~~this Code section by passage of a resolution by a majority of the county governing~~
2 ~~authorities within the jurisdiction of the community service board prior to January 1, 1997,~~
3 ~~or each year thereafter.~~

4 ~~(h) Each community service board shall adopt bylaws and operational policies and~~
5 ~~guidelines in conformity with procedures established by the division. Those bylaws shall~~
6 ~~address board appointment procedures, initial terms of board members, the staggering of~~
7 ~~terms, quorum, a mechanism for ensuring that consumers of disability services and family~~
8 ~~members of consumers constitute a majority of the appointed board members, and a~~
9 ~~mechanism for ensuring equitable representation of the various disability groups. The~~
10 ~~regular term of office for each community service board member shall be three years.~~
11 ~~Vacancies on such board shall be filled in the same manner as the original appointment.~~

12 ~~(i) Each community service board which is composed of members who are appointed~~
13 ~~thereto by the governing authority of only one county shall have a minimum of six~~
14 ~~members, not including ex officio members, notwithstanding the provisions of subsection~~
15 ~~(b) of this Code section, which members in all other respects shall be appointed as provided~~
16 ~~in this Code section.~~

17 ~~(j) No officer or employee of a community service board who has authority to take, direct~~
18 ~~others to take, recommend, or approve any personnel action shall take or threaten action~~
19 ~~against any employee of a community service board as a reprisal for making a complaint~~
20 ~~or disclosing information concerning the possible existence of any activity constituting~~
21 ~~fraud, waste, or abuse in or relating to the programs, operations, or client services of the~~
22 ~~board to the board or to a member of the General Assembly unless the complaint was made~~
23 ~~or the information was disclosed with the knowledge that it was false or with willful~~
24 ~~disregard for its truth or falsity. Any action taken in violation of this subsection shall give~~
25 ~~the public employee a right to have such action set aside in a proceeding instituted in the~~
26 ~~superior court.~~

27 ~~(k) A member of a community service board who after notice that such member has failed~~
28 ~~to complete any required training prescribed by the department pursuant to paragraph (4)~~
29 ~~of subsection (b) of Code Section 37-1-20 continues such failure for 30 days may be~~
30 ~~removed from office by the remaining members of the community service board.~~

31 ~~(l) A member of a community service board may resign from office by giving written~~
32 ~~notice to the executive director of the community service board. The resignation is~~
33 ~~irrevocable after delivery to such executive director but shall become effective upon the~~
34 ~~date on which the notice is received or on the effective date given by the member in the~~
35 ~~notice, whichever date is later. The executive director, upon receipt of the resignation,~~
36 ~~shall give notice of the resignation to the remaining members of the community service~~

board and to the chief executive officer or governing authority of the county that appointed the member.

(m) ~~The office of a member of a community service board shall be vacated upon such member's resignation, death, or inability to serve due to medical infirmity or other incapacity, removal by the community service board as authorized in this Code section, or upon such other reasonable condition as the community service board may impose under its bylaws.~~

(n) ~~A member of a community service board may not enter upon the duties of office until such member takes the following oath of office:~~

STATE OF GEORGIA

COUNTY OF _____

I, _____, do solemnly swear or affirm that I will truly perform the duties of a member of the _____ Community Service Board to the best of my ability.

Signature of member of

Community Service Board

Typed name of member of

Community Service Board

Sworn and subscribed

before me this _____ day

of _____, _____.

(SEAL) Reserved.

SECTION 15.

Said title is further amended by striking Code Section 37-2-6.1, relating to personnel, powers, and tax exemptions regarding community service boards, and inserting in its place a new Code Section 37-2-6.1 to read as follows:

"37-2-6.1.

(a) ~~Each community service board shall employ an executive director to serve as its chief executive officer. Such executive director shall be appointed and removed by the community service board and shall appoint other necessary staff pursuant to an annual~~

1 budget adopted by the board, which budget shall provide for securing appropriate facilities,
2 sites, and professionals necessary for the provision of disability services. The community
3 service board may delegate any power, authority, duty, or function to its executive director
4 or other staff. The executive director or other staff is authorized to exercise any power,
5 authority, duty, or function on behalf of the community service board.

6 (b) Each community service board, under the jurisdiction of its board, shall perform duties,
7 responsibilities, and functions and may exercise power and authority described in this
8 subsection. Each program may exercise the following power and authority:

9 (1) Each community service board may adopt bylaws for the conduct of its affairs;
10 provided, however, that the community service board shall meet at least quarterly, and
11 that all such meetings and any bylaws shall be open to the public, as otherwise required
12 under Georgia law;

13 (2) Each community service board may make and enter into all contracts necessary and
14 incidental to the performance of its duties and functions;

15 (3) Each community service board may acquire by purchase, gift, lease, or otherwise and
16 may own, hold, improve, use, and sell, convey, exchange, transfer, lease, sublease, and
17 dispose of real and personal property of every kind and character, or any interest therein,
18 for its corporate purposes;

19 (4) Each community service board may contract to utilize the services of the Department
20 of Administrative Services, the State Merit System of Personnel Administration, the state
21 auditor, or any other agency of state, local, or federal government;

22 (5) Each community service board may provide, either independently or through contract
23 with appropriate state or local governmental entities, the following benefits to its
24 employees, their dependents, and survivors, in addition to any compensation or other
25 benefits provided to such persons:

26 (A) Retirement, pension, disability, medical, and hospitalization benefits, through the
27 purchase of insurance or otherwise, but medical and hospitalization benefits may only
28 be provided through the Department of Community Health under the same conditions
29 as provided for such benefits to state employees, and the Department of Community
30 Health shall so provide if requested;

31 (B) Life insurance coverage and coverage under federal old age and survivors'
32 insurance programs;

33 (C) Sick leave, annual leave, and holiday leave, and

34 (D) Any other similar benefits including, but not limited to, death benefits;

35 (6) Each community service board may cooperate with all units of local government
36 within the boundaries of the community service board as well as neighboring regions and

1 with the programs of other departments, agencies, and regional commissions and regional
2 planning boards;

3 ~~(7) Each community service board shall comply with the provisions of Chapter 20 of~~
4 ~~Title 45, relating to state personnel administration, and each employee of such board shall~~
5 ~~be a covered employee as defined in Code Section 45-20-2, subject to the rules and~~
6 ~~regulations of the state merit system;~~

7 ~~(8) Each community service board may receive and administer grants, gifts, contracts,~~
8 ~~moneys, and donations for purposes pertaining to the delivery of disability services;~~

9 ~~(9) Each community service board may establish fees for the provision of disability~~
10 ~~services according to Department of Human Resources and Department of Community~~
11 ~~Health state-wide standards;~~

12 ~~(10) Each community service board may accept appropriations, loans of funds, facilities,~~
13 ~~equipment, and supplies from the local governmental entities within its boundaries;~~

14 ~~(11) Each member of the community service board may, upon approval of the executive~~
15 ~~director, receive reimbursement for actual expenses incurred in carrying out the duties of~~
16 ~~such office in conformance with rates and allowances set for state employees by the~~
17 ~~Office of Planning and Budget and the same milage allowance for use of a personal car~~
18 ~~as that received by all other state officials and employees or a travel allowance of actual~~
19 ~~transportation cost if traveling by public carrier;~~

20 ~~(12) Each community service board shall elect a chairperson and vice chairperson from~~
21 ~~among its membership; and the bylaws of the community service board shall provide for~~
22 ~~any other officers of such board and the means of their selection, the terms of office of~~
23 ~~the officers, and an annual meeting to elect officers;~~

24 ~~(13) Each community service board may have a seal and alter it;~~

25 ~~(14) Each community service board may contract with the State Merit System of~~
26 ~~Personnel Administration regarding its personnel who remain in the classified service;~~

27 ~~(15) Each community service board may establish fees, rates, rents, and charges for the~~
28 ~~use of facilities of the community service board for the provision of disability services~~
29 ~~when approved by the department;~~

30 ~~(16) Each community service board may borrow money for any business purpose and~~
31 ~~may incur debt, liabilities, and obligations for any business purpose. A debt, liability, or~~
32 ~~obligation incurred by a community service board shall not be considered a debt, liability,~~
33 ~~or obligation of the state or any county or any municipality or any political subdivision~~
34 ~~of the state. A community service board may not borrow money as permitted by this~~
35 ~~Code section if the highest aggregate annual debt service requirements of the then current~~
36 ~~fiscal year or any subsequent year for outstanding borrowings of the community service~~

1 ~~board, including the proposed borrowing, exceed 15 percent of the total revenues of the~~
2 ~~community service board in its fiscal year immediately preceding the fiscal year in which~~
3 ~~such debt is to be incurred. Interest paid upon such borrowings shall be exempt from~~
4 ~~taxation by the state or its political subdivisions. A state contract with a community~~
5 ~~service board shall not be used or accepted as security or collateral for a debt, liability,~~
6 ~~or obligation of a community service board without the prior written approval of the~~
7 ~~commissioner;~~

8 ~~(17) Each community service board, to the extent authorized by law and contract for the~~
9 ~~funds involved, may carry forward without lapse fund balances and establish operating,~~
10 ~~capital, and debt reserve accounts from revenues and grants derived from state, county,~~
11 ~~and all other sources; and~~

12 ~~(18) Each community service board may operate, establish, or operate and establish~~
13 ~~facilities deemed by the community service board as necessary and convenient for the~~
14 ~~administration, operation, or provision of disability services by the community service~~
15 ~~board and may construct, reconstruct, improve, alter, repair, and equip such facilities to~~
16 ~~the extent authorized by state and federal law.~~

17 ~~(c) Nothing shall prohibit a community service board from contracting with any county~~
18 ~~governing authority, private or other public provider, or hospital for the provision of~~
19 ~~disability services.~~

20 ~~(d) Each community service board exists for nonprofit and public purposes, and it is found~~
21 ~~and declared that the carrying out of the purposes of each community service board is~~
22 ~~exclusively for public benefit and its property is public property. Thus, no community~~
23 ~~service board shall be required to pay any state or local ad valorem, sales, use, or income~~
24 ~~taxes.~~

25 ~~(e) A community service board does not have the power to tax, the power to issue general~~
26 ~~obligation bonds or revenue bonds or revenue certificates, or the power to financially~~
27 ~~obligate the state or any county or any municipal corporation.~~

28 ~~(f) A community service board shall not operate any facility for profit. A community~~
29 ~~service board may fix fees, rents, rates, and charges that are reasonably expected to produce~~
30 ~~revenues, which, together with all other funds of the community service board, will be~~
31 ~~sufficient to administer, operate, and provide the following:~~

32 ~~(1) Disability services;~~

33 ~~(2) The cost of acquiring, constructing, equipping, maintaining, repairing, and operating~~
34 ~~its facilities; and~~

35 ~~(3) The creation and maintenance of reserves sufficient to meet principal and interest~~
36 ~~payments due on any obligation of the community service board.~~

~~(g) Each community service board may provide reasonable reserves for the improvement, replacement, or expansion of its facilities and services. Reserves under this subsection shall be subject to the limitations in paragraph (16) of subsection (b) of this Code section.~~

~~(h) Each county and municipal corporation of this state is authorized to convey or lease property of such county or municipal corporation to a community service board for its public purposes. Any property conveyed or leased to a community services board by a county or municipal corporation shall be operated by such community service board in accordance with this chapter and the terms of the community service board's agreements with the county or municipal corporation providing such conveyance or lease.~~

~~(i) Each community service board shall keep books of account reflecting all funds received, expended, and administered by the community service board which shall be independently audited annually.~~

~~(j) When approved by the commissioner, a community service board may create, form, or become a member of a nonprofit corporation, limited liability company, or other nonprofit entity, the voting membership of which shall be limited to community service boards, governmental entities, nonprofit corporations, or a combination thereof, if such entity is created for purposes that are within the powers of the community service board, for the cooperative functioning of its members, or a combination thereof. No community service board, whether or not it exercises the power authorized by this subsection, shall be relieved of compliance with Chapter 14 of Title 50, relating to open and public meetings, and Article 4 of Chapter 18 of Title 50, relating to inspection of public records, unless otherwise provided by law.~~

~~(k) No community service board shall employ or retain in employment, either directly or indirectly through contract, any person who is receiving a retirement benefit from the Employees' Retirement System of Georgia except in accordance with the provisions of subsection (c) of Code Section 47-2-110; provided, however, that any such person who is employed as of July 1, 2004, may continue to be employed. Reserved.~~

SECTION 16.

Said title is further amended by striking Code Section 37-2-6.2, relating to employees of community service boards, and inserting in its place a new Code Section 37-2-6.2 to read as follows:

"37-2-6.2.

~~(a)(1) Those employees whose job descriptions, duties, or functions as of June 30, 1994, included the performance of employment duties or functions which will become employment duties or functions of the personnel of a community service board on July~~

1 ~~1, 1994, shall become employees of the applicable community service boards on and after~~
2 ~~July 1, 1994. Such employees shall be subject to the employment practices and policies~~
3 ~~of the applicable community service board on and after July 1, 1994. Employees who are~~
4 ~~subject to the State Merit System of Personnel Administration and who are transferred~~
5 ~~to a community service board shall retain all existing rights under the State Merit System~~
6 ~~of Personnel Administration. Retirement rights of such transferred employees existing~~
7 ~~under the Employees' Retirement System of Georgia or other public retirement systems~~
8 ~~on June 30, 1994, shall not be impaired or interrupted by the transfer of such employees~~
9 ~~and membership in any such retirement system shall continue in the same status~~
10 ~~possessed by the transferred employees on June 30, 1994, without any interruption in~~
11 ~~membership service and without the loss of any creditable service. For purposes of~~
12 ~~coverage under the Employees' Retirement System of Georgia, such employees~~
13 ~~transferred to the community service boards on July 1, 1994, shall be deemed to be state~~
14 ~~employees. Accrued annual and sick leave possessed by said employees on June 30,~~
15 ~~1994, shall be retained by said employees as employees of the community service board.~~
16 ~~Any person who is granted employment rights and benefits as a member of a community~~
17 ~~service board pursuant to this subsection and who later becomes employed, without any~~
18 ~~break in service, by the division, a hospital thereof, another community service board, a~~
19 ~~county board of health for which such person provides services pursuant to this title, or~~
20 ~~a regional board shall retain, in that later employment position, all such rights and~~
21 ~~benefits. Such rights and benefits shall also be retained by any person who is employed~~
22 ~~on June 30, 1994, by the division, a hospital thereof, a county board of health for which~~
23 ~~such person provides services pursuant to this title, or a regional board and who later~~
24 ~~becomes employed, without any break in service, by a community service board.~~

25 ~~(2) Classified employees of a community service board under this chapter shall in all~~
26 ~~instances be employed and dismissed in accordance with rules and regulations of the~~
27 ~~State Merit System of Personnel Administration.~~

28 ~~(3) All rights, credits, and funds in the Employees' Retirement System of Georgia which~~
29 ~~are possessed by personnel transferred by provisions of this Code section to the~~
30 ~~community service boards are continued and preserved, it being the intention of the~~
31 ~~General Assembly that such persons shall not lose any rights, credits, or funds to which~~
32 ~~they may be entitled prior to becoming employees of the community service boards.~~

33 ~~(b) As to those persons employed by the division, a hospital thereof, or a regional board~~
34 ~~on June 30, 1994, any termination from state employment after that date of any such person~~
35 ~~who is a member of the classified service shall not result from the anticipated or actual~~
36 ~~employment or utilization by:~~

- 1 (1) The department;
2 (2) A regional board;
3 (3) ~~A community service board; Reserved~~;
4 (4) A hospital; or
5 (5) Any private provider of disability services of any person who is not an employee of
6 the state or a political subdivision thereof to perform the duties and functions of such
7 terminated state personnel unless such termination and utilization is the result of a
8 reduction in appropriations for such duties or functions or is the result of a reduction in
9 force caused by any other state department or agency which has ceased to contract with
10 the department for the services which had been provided by the terminated state
11 personnel."

12 SECTION 17.

13 Said title is further amended by striking Code Section 37-2-6.3, relating to debts, obligations,
14 and liabilities of community service boards, and inserting in its place a new Code Section
15 37-2-6.3 to read as follows:

16 "37-2-6.3.

17 ~~(a) A community service board is a public body as provided in paragraph (1) of subsection~~
18 ~~(c) of Code Section 37-2-11.1.~~

19 ~~(b) A community service board has the power to bring an action in its own name and, to~~
20 ~~the extent otherwise authorized by law and to the extent not immune from suit, may be sued~~
21 ~~in its own name. The state and the counties in which the community service board operates~~
22 ~~shall not be considered a party to or liable under any such litigation.~~

23 ~~(c) Debts, obligations, and liabilities of a community service board are not, debts,~~
24 ~~obligations, or liabilities of the state or of the counties in which such board operates. A~~
25 ~~community service board is prohibited from entering into debts, obligations, or liabilities~~
26 ~~which are also debts, obligations, or liabilities of the state or of any county. Reserved."~~

27 SECTION 18.

28 Said title is further amended by striking Code Section 37-2-6.4, relating to reconstitution or
29 conversion of community service boards, and inserting in its place a new Code Section
30 37-2-6.4 to read as follows:

31 "37-2-6.4.

32 ~~(a) Notwithstanding any other provisions of this chapter, a community service board may~~
33 ~~reconstitute or convert its organizational structure in the following ways:~~

~~(1) With the approval of the governing board of the community service board and the approval of the county governing authorities of the counties served by the community service board, the community service board may convert to a private nonprofit corporation. So long as the reconstituted organization continues to serve a public purpose as defined by the department, such organization shall be authorized to retain the use of assets, equipment, and resources purchased with state and federal funds by the former community service board. In the event the new private nonprofit fails to serve such public purpose, those assets, equipment, and resources purchased by the former community service board with state and federal funds shall be returned to the department or to an agency designated by the department. For a period of three years following the community service board's conversion to a private nonprofit corporation, the private nonprofit corporation shall ensure that consumers of disability services and family members of consumers constitute a majority of the appointed board members and that the various disability groups are equitably represented on the board of the nonprofit corporation;~~

~~(2) With the approval of the governing board of the community service board and the approval of all of the county governing authorities of the counties served by the community service board, the community service board may convert to a unit of county government. All assets, equipment, and resources of the community service board shall be transferred to the new unit of county government; or~~

~~(3) With the approval of the governing board of the community service board and the approval of all of the county governing authorities of the counties served by the community service board, the community service board may become a component part of a hospital authority in those counties served by the community service board. So long as the hospital authority continues to serve a public purpose as defined by the department, the hospital authority shall be authorized to retain possession of those assets, equipment, and resources purchased by the community service board with state and federal funds. In the event the hospital authority fails to serve such public purpose, those assets, equipment, and resources purchased by the community service board with state and federal funds shall be returned to the department or to an agency designated by the department.~~

~~(b) In the event that all county governing authorities of a community service area designated pursuant to subsection (b) of Code Section 37-2-3 concur that a community service board reconstituted pursuant to subsection (a) of this Code section has failed to provide disability services as required, those county governing authorities may request that the division coordinate the formation of a new community service board pursuant to Code~~

~~Section 37-2-6. Upon notification of the request, the division shall assist the county governing authorities in making appointments to the new community service board and establishing bylaws pursuant to Code Section 37-2-6. The division shall make a determination about the disposition of all assets, equipment, and resources purchased with state or federal funding in the possession of the predecessor agency. Reserved."~~

SECTION 19.

Said title is further amended by striking Code Section 37-2-7, relating to state plans for disability services, and inserting in its place a new Code Section 37-2-7 to read as follows:

"37-2-7.

(a) The division shall formulate and publish biennially a state plan for disability services which shall take into account the disability services plans submitted by the regional offices as required by Code Section 37-2-5.2. The state disability services plan shall be comprehensive and shall include public and private institutional and community services to the disabled. In developing the state plan, the division shall request input from the regional offices and planning boards, ~~the community service boards~~, hospitals, and other public and private providers. The plan shall include an overview of current services and programs and shall also present information on future program, service, educational, and training needs.

(b) The plan shall address ways of eliminating, to the extent possible, detrimental delays and interruptions in the administration of disability services when moving an individual from one element of service to another in order to ensure continuity of care and treatment for persons receiving such services.

(c) The plan shall further set forth the proposed annual budget of the division and the regions.

(d) The plan shall be submitted to the department, the Governor, the General Assembly, the Governor's council, the regional planning boards, the hospitals, ~~the community service boards~~, and any other public or private provider requesting a copy of the plan.

(e) At such time as the state plan is submitted, the division shall further submit an analysis of services provided, programs instituted, progress made, and the extent of implementation of the previous biennial plan. Such analysis shall measure the effectiveness and the efficiency of the methods of delivering services which ameliorate or prevent disability and restore health. This analysis shall further address the efforts of the division in coordinating services in accordance with Code Section 37-2-9."

SECTION 20.

1 Said title is further amended by striking Code Section 37-2-9, relating to community service
2 board service coordination, and inserting in its place a new Code Section 37-2-9 to read as
3 follows:

4 "37-2-9.

5 To the maximum extent possible, disability services provided by the division and the
6 regional offices, hospitals, ~~community service boards~~, and other public and private
7 providers shall be coordinated with related activities of the department and judicial,
8 correctional, educational, social, and other health service agencies and organizations, both
9 private and public."

10 SECTION 21.

11 Said title is further amended by striking Code Section 37-2-9.1, relating to open meeting and
12 records compliance, and inserting in its place a new Code Section 37-2-9.1 to read as
13 follows:

14 "37-2-9.1.

15 (a) Each regional planning board ~~and community service board~~ shall comply with the
16 provisions of Chapter 14 of Title 50, relating to open and public meetings, and Article 4
17 of Chapter 18 of Title 50, relating to inspection of public records, except where records or
18 proceedings are expressly made confidential pursuant to other provisions of law.

19 (b) Each regional office ~~and community service board~~ and other public and private
20 providers are authorized to establish one or more advisory boards for the purpose of
21 ensuring coordination with various agencies and organizations and providing professional
22 and other expert guidance."

23 SECTION 22.

24 Said title is further amended by striking Code Section 37-2-10, relating to establishment and
25 administration of emergency community programs, and inserting in its place a new Code
26 Section 37-2-10 to read as follows:

27 "37-2-10.

28 ~~(a) Notwithstanding any other provisions of the law, the director with the concurrence of~~
29 ~~the commissioner and the Governor is authorized to establish and administer community~~
30 ~~programs on an emergency basis in the event one or more community service boards fail~~
31 ~~to assume responsibility for the establishment and implementation of an adequate range of~~
32 ~~disability services or to provide appropriate disability services as determined by the~~
33 ~~division or substantially breach their contracts with the department pursuant to this chapter.~~

~~(b) Upon notification by a community service board of an inability to provide an adequate range of disability services or to provide appropriate services, the director, with concurrence of the commissioner and the Governor, may:~~

~~(1) Assume responsibility for the administration and operation of all of the community programs operated by or through such board and, in which case, the programs shall become department programs; the department shall acquire the assets of the community service board; and the community service board employees shall become employees of the department;~~

~~(2) Assume responsibility for the administration and operation of one or more of the community programs operated by or through such board, in which case, such program or programs shall become a department program or programs; the department shall acquire those assets of the community service board assigned to such program or programs; and the employees of such program or programs shall become employees of the department. Any community service board programs not transferred to the department shall continue to be operated by the community service board and the employees for such programs shall remain community service board employees; or~~

~~(3) Appoint a manager or management team to manage and operate the programs and services of the community service board until such time as a determination has been made that the circumstances or conditions causing the appointment of a manager or management team have been sufficiently corrected. Upon such a determination, the authority to manage and operate the programs and services of the community service board shall be returned to the community service board. Reserved."~~

SECTION 23.

Said title is further amended by striking subsection (b) of Code Section 37-2-11, relating to fund allocation for community service boards, and inserting in its place a new subsection (b) to read as follows:

"(b) Fees generated, if any, by hospitals, ~~community service boards~~, and other private and public providers, providing services under contract or purview of the regional offices, shall be reported to the regional offices and applied wherever appropriate against the cost of providing, and increasing the quantity and quality of, disability services. The division shall be responsible for developing procedures to properly account for the collection, remittance, and reporting of generated fees. The regional offices shall work with the ~~community service boards~~ and other public or private providers to develop an appropriate mechanism for accounting for the funds and resources contributed to local disability services by counties and municipalities within the area. Such contributions are not required

1 to be submitted to ~~either the community service boards or the regional offices~~; however,
2 appropriate documentation and accounting entries shall make certain that the county or
3 municipality is credited, and if necessary compensated, appropriately for such contribution
4 of funds or resources."

5 SECTION 24.

6 Said title is further amended by striking Code Section 37-2-11.1, relating to venue with
7 respect to community service boards, and inserting in its place a new Code Section 37-2-11.1
8 to read as follows:

9 "37-2-11.1.

10 ~~(a) Venue for the purpose of any action against a community service board shall be the~~
11 ~~county in which the principal office of the community service board is located. For~~
12 ~~purposes of this Code section, 'principal office' shall be defined as the facility which houses~~
13 ~~the executive director or other such top administrator for the community service board.~~

14 ~~(b) In any legal proceeding, a regional planning board or the regional office shall be~~
15 ~~considered a unit of the division and shall be afforded the assistance of legal counsel from~~
16 ~~the Attorney General.~~

17 ~~(c)(1) The community service boards shall be public bodies but shall not be considered~~
18 ~~agencies of the state or any specific county or municipality. Such community service~~
19 ~~boards are public agencies in their own right and shall have the same immunity as~~
20 ~~provided for counties. No county shall be liable for any action, error, or omission of a~~
21 ~~community service board. Notwithstanding any provisions of law to the contrary, and~~
22 ~~regardless of any provisions of law which grant employees of the community service~~
23 ~~boards benefits under programs operated by the state or which deem them to be state~~
24 ~~employees only for purposes of those benefits, employees of the community service~~
25 ~~boards shall not be employees of the state but shall be employees of the community~~
26 ~~service boards and, further, the state shall not be liable for any action, error, or omission~~
27 ~~of such employees.~~

28 ~~(2) A community service board may employ or contract for legal counsel to assist in~~
29 ~~performing its duties and shall be authorized to appoint legal counsel to represent the~~
30 ~~community service board and its employees. The community service board may exercise~~
31 ~~any authority granted in Article 2 of Chapter 9 of Title 45, relating to the indemnification,~~
32 ~~defense, and insuring of members and employees of public bodies. Reserved.~~

33 SECTION 25.

Said title is further amended by striking Code Section 37-2-11.2, relating to program records access, and inserting in its place a new Code Section 37-2-11.2 to read as follows:

"37-2-11.2.

(a) Notwithstanding any other law to the contrary, to ensure the quality and integrity of patient and client care, any program receiving any public funds from, or subject to licensing, certification, or facility approval by, the Department of Human Resources or a regional office shall be required to provide the department or the appropriate regional office or both, upon request, complete access to, including but not limited to authorization to examine and reproduce, any records required to be maintained in accordance with contracts, standards, or rules and regulations of the Department of Human Resources or pursuant to the provisions of this title.

(b) Records obtained pursuant to subsection (a) of this Code section shall not be considered public records and shall not be released by the department or any regional office unless otherwise specifically authorized by law.

~~(c) The community service board shall maintain a clinical record for each consumer receiving treatment or habilitation services from such board. The treatment of clinical records of consumers in receiving services for mental illness shall be governed by the provisions of Code Section 37-3-166. The treatment of clinical records of consumers receiving habilitation services for developmental disabilities shall be governed by the provisions of Code Section 37-4-125. The treatment of clinical records of consumers in treatment for addictive diseases shall be governed by the provisions of Code Section 37-7-166."~~

SECTION 26.

Said title is further amended by striking paragraph (6) of Code Section 37-2-30, relating to definitions regarding mental disability services, and inserting in its place a new paragraph (6) to read as follows:

"(6) 'Services provider' means a ~~community service board~~ or state or local governmental entity, but not a regional board, which provides disability services to service recipients in a regional board district in which the program is operated or which contracts for the provision of those services or any person, corporation, or business which provides disability services to service recipients in a regional board district in which the program is operated."

SECTION 26A.

1 Said title is further amended by striking paragraph (5) of Code Section 37-2-30, relating to
2 definitions regarding mental disability services, as amended by Ga. L. 2002, p. 1324, Section
3 1-8, and inserting in its place a new paragraph (5) to read as follows:

4 "(5) 'Services provider' means a ~~community service board~~ or state or local governmental
5 entity which provides disability services to service recipients or any person, corporation,
6 or business which provides disability services to service recipients."

7 **SECTION 27.**

8 Said title is further amended by striking Code Section 37-2-40, relating to certain
9 discrimination or retaliation regarding service recipients or service provider employees, and
10 inserting in its place a new Code Section 37-2-40 to read as follows:

11 "37-2-40.

12 (a) No person shall discriminate or retaliate in any manner against any service recipient
13 or relative or guardian of a service recipient, any employee of a services provider, or any
14 other person because of the making of a complaint or the providing of information in good
15 faith to the state ombudsman or community ombudsman. No person shall willfully interfere
16 with the state ombudsman or community ombudsman in the performance of his or her
17 official duties.

18 (b) A member of a regional board ~~or community service board~~ who violates subsection (a)
19 of this Code section shall be subject to permanent removal from such board by the director
20 of the division.

21 (c) A services provider which violates subsection (a) of this Code section shall be subject
22 to one or more of the following sanctions which may be imposed by the director of the
23 division:

24 (1) The termination of any contract for which state funds are received for the provision
25 of disability services if such contract was executed on or after July 1, 2000;

26 (2) The payment of a civil penalty not to exceed \$5,000.00 for each violation; or

27 (3) Having to suspend without pay for a period of at least two months or terminate any
28 employee of such provider determined to have committed the violation.

29 (d) An action against a member of a regional board, ~~community service board~~, or services
30 provider under this Code section shall be a contested case within Article 1 of Chapter 13
31 of Title 50, relating to administrative procedure."

32 **SECTION 27A.**

33 Said title is further amended by striking Code Section 37-2-40, relating to certain
34 discrimination or retaliation regarding service recipients or service provider employees, as

1 amended by Ga. L. 2002, p. 1324, Section 1-8, and inserting in its place a new Code Section
2 37-2-40 to read as follows:

3 "37-2-40.

4 (a) No person shall discriminate or retaliate in any manner against any service recipient
5 or relative or guardian of a service recipient, any employee of a services provider, or any
6 other person because of the making of a complaint or the providing of information in good
7 faith to the state ombudsman or community ombudsman. No person shall willfully
8 interfere with the state ombudsman or community ombudsman in the performance of his
9 or her official duties.

10 (b) A member of a regional planning board ~~or community service board~~ who violates
11 subsection (a) of this Code section shall be subject to permanent removal from such board
12 by the director of the division.

13 (c) A services provider which violates subsection (a) of this Code section shall be subject
14 to one or more of the following sanctions which may be imposed by the director of the
15 division:

16 (1) The termination of any contract for which state funds are received for the provision
17 of disability services if such contract was executed on or after July 1, 2002;

18 (2) The payment of a civil penalty not to exceed \$5,000.00 for each violation; or

19 (3) Having to suspend without pay for a period of at least two months or terminate any
20 employee of such provider determined to have committed the violation.

21 (d) An action against a member of a regional planning board, ~~community service board,~~
22 or services provider under this Code section shall be a contested case within Article 1 of
23 Chapter 13 of Title 50, relating to administrative procedure."

24 SECTION 28.

25 Said title is further amended by striking paragraph (3) of Code Section 37-3-1, relating to
26 definitions regarding mental illness treatment, and inserting in its place a new paragraph (3)
27 to read as follows:

28 "(3) 'Community mental health center' means an organized program for the care and
29 treatment of the mentally ill operated by ~~a community service board or other~~ an
30 appropriate public provider."

31 SECTION 29.

32 Said title is further amended by striking paragraph (6) of Code Section 37-7-1, relating to
33 definitions regarding treatment of alcoholics and drug abusers, and inserting in its place a
34 new paragraph (6) to read as follows:

"(6) 'Community mental health center' means an organized program for the care and treatment of alcoholics, drug dependent individuals, or drug abusers operated by a ~~community service board or other~~ an appropriate public provider."

SECTION 30.

Title 43 of the Official Code of Georgia Annotated, relating to professions, is amended by striking paragraph (3) of subsection (b) of Code Section 43-10A-7, relating to license requirements regarding professional counselors, social workers, and marriage and family therapists, and inserting in its place a new paragraph (3) to read as follows:

~~“(3)(A) Persons who, prior to July 1, 2000, engaged in the practice of a specialty as an employee of any community service board or similar entity created by general law to provide services to persons with disabilities, as defined in Chapter 2 of Title 37, or any agency or department of the state or any of its political subdivisions, but only when engaged in that practice as an employee of such an agency or department.~~

~~(B) Persons who engage in the practice of social work as employees of any community service board or similar entity created by general law to provide services to persons with disabilities, as defined in Chapter 2 of Title 37, or any agency or department of the state or any of its political subdivisions, but only when engaged in that practice as employees of such community service board or similar entity, agency, or department, and persons or entities which contract to provide social work services with any community service board or similar entity or any agency or department of the state or any of its political subdivisions, but such contracting persons and entities shall only be exempt under this subparagraph when engaged in providing social work services pursuant to those contracts and shall only be exempt until January 1, 1996.~~

~~(C) Persons who engage in the practice of professional counseling as employees of privately owned correctional facilities, the Department of Corrections, Department of Human Resources, any county board of health, or any community service board or similar entity created by general law to provide services to persons with disabilities, as defined in Chapter 2 of Title 37, but only when engaged in that practice as employees of such privately owned correctional facility, department, board, or entity and persons or entities which contract to provide professional counseling services with such department or board of health, but such contracting persons and entities shall only be exempt under this subparagraph when engaged in providing professional counseling services pursuant to those contracts and shall only be exempt until January 1, 1996;~~
Reserved."

SECTION 31.

Said title is further amended by striking paragraph (3) of Code Section 43-39-7, relating to licensure and practice of psychology, and inserting in its place a new paragraph (3) to read as follows:

"(3) Nothing in this chapter shall require licensure for a person who was engaged in the practice of psychology as an employee of an agency or department of the state government; or any of its political subdivisions; ~~or community service boards as defined in Code Section 37-2-2~~ either prior to July 1, 1996, at a state intermediate care or skilled care facility for persons with mental retardation or prior to July 1, 1997, at any other facilities or offices of the entities previously mentioned, but only when that person is engaged in that practice as an employee of such entities;"

SECTION 32.

Title 45 of the Official Code of Georgia Annotated, relating to public officers, is amended by striking subsection (c) of Code Section 45-9-1, relating to insuring and indemnification of state officers and employees, and inserting in its place a new subsection (c) to read as follows:

"(c) For the purpose of this article, the term 'agency' shall specifically include, but shall not be limited to, public retirement systems of state-wide application established by the laws of this state, but shall not include counties or municipalities; provided, however, that the employees of ~~community service boards~~, county departments of health; and county departments of family and children services as well as the members of the boards of said departments shall be considered to be state employees or officials for the purpose of this article. In order to facilitate the administration of liability coverage or other insurance coverages provided the ~~community service boards~~, county departments of health; and county departments of family and children services, the Department of Human Resources must designate a central office which will be responsible for obtaining, submitting, and collecting all underwriting information and insurance premiums requested and assessed by the Department of Administrative Services."

SECTION 33.

Said title is further amended by striking Code Section 45-9-40.1, relating to automobile liability coverage of community service boards, and inserting in its place a new Code Section 45-9-40.1 to read as follows:

"45-9-40.1.

1 The Department of Administrative Services is authorized to provide automobile liability
2 coverage to ~~community service boards~~ county departments of health and county
3 departments of family and children services through the automobile policy of insurance
4 provided for in Code Section 45-9-40 or through a separate business automobile liability
5 policy. These policies will provide coverage to employees of county departments of health;
6 and county departments of family and children services, ~~and community service boards~~, up
7 to the limit specified in the policy, for protection from liability for damages arising out of
8 the operation of any state owned or leased vehicle when such ~~boards~~ departments use these
9 vehicles in the course of their employment. The commissioner of administrative services
10 may provide the coverages, with the cost of such insurance being allocated to such ~~boards~~
11 ~~and~~ departments in accordance with the allocation formula provided for in Code Section
12 45-9-43 or by allocating the actual cost of the business automobile liability policy to such
13 ~~boards and~~ departments. The Department of Human Resources must provide a central
14 office to coordinate the collection of underwriting data and premiums as required in
15 subsection (c) of Code Section 45-9-1."

16 SECTION 34.

17 Said title is further amended by striking subsection (d) of Code Section 45-9-110, relating
18 to consolidations of certain unemployment claims matters, and inserting in its place a new
19 subsection (d) to read as follows:

20 "(d) The commissioner of administrative services shall have the authority to provide
21 unemployment compensation benefits insurance to all of the county departments of health;
22 and county departments of family and children services, ~~and community service boards~~.
23 The commissioner of human resources shall establish a procedure to provide the
24 Department of Administrative Services all of the underwriting information required,
25 including but not limited to payroll data each quarter for the service centers, and shall
26 collect the unemployment premium from such ~~boards and~~ departments and remit the
27 premium to the Department of Administrative Services. All of the county departments of
28 health; and county departments of family and children services, ~~and community service~~
29 ~~boards~~ shall participate in such unemployment compensation ~~benefit~~ benefits insurance
30 program."

31 SECTION 35.

32 Said title is further amended by striking paragraph (7) of Code Section 45-20-2, relating to
33 definitions regarding personnel administration, and inserting in its place a new paragraph (7)
34 to read as follows:

"(7) 'Department' and 'agency' are synonymous and mean all separate and distinct divisions and subdivisions of state government whose heads are legally authorized to appoint employees to positions; but these terms shall not include authorities and public corporations. 'Department' and 'agency' shall include an agency assigned to a department for administrative purposes and shall also include local departments of public health, county departments of family and children services, ~~community service boards,~~ and units of the Department of Defense with local employees."

SECTION 36.

Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended by striking Code Section 50-5-51.1, relating to commercial fidelity bonds, and inserting in its place a new Code Section 50-5-51.1 to read as follows:

"50-5-51.1.

The commissioner of administrative services may, upon request, assist and coordinate with county departments of health; and county departments of family and children services; ~~and community service boards~~ the purchase of commercial fidelity bonds for officials, officers, and employees of such ~~boards and~~ departments. The payment of the premium to the commercial fidelity carrier will be the responsibility of such county departments of health; and county departments of family and children services; ~~and community service boards.~~"

SECTION 37.

Said title is further amended by striking Code Section 50-16-11.1, relating to commercial property insurance policies, and inserting in its place a new Code Section 50-16-11.1 to read as follows:

"50-16-11.1.

~~The Department of Administrative Services is authorized to assist and coordinate the purchase of a commercial property policy for coverage for the buildings, contents, and other property owned by community service boards. The payment of the premium to the commercial carrier shall be the responsibility of the community service boards. Reserved."~~

SECTION 38.

(a) Except as otherwise provided in subsection (b) of this section, this Act shall become effective on July 1, 2006.

(b) Sections 26A and 27A of this Act shall become effective only upon the effective date of a specific appropriation of funds for the purposes of Sections 26A and 27A of this Act as

1 expressed in a line item making specific reference to the full funding of Sections 26A and
2 27A of this Act in an appropriations Act enacted by the General Assembly.

3 **SECTION 39.**

4 All laws and parts of laws in conflict with this Act are repealed.